

1
2
3
4
5
6 DAVID D. HARRIS,
7 Petitioner,

8 v.
9
10 GENA JONES, Acting Warden,
11 Respondent.

12 Case No. 23-cv-02434-AMO (PR)

13
14 **ORDER OF DISMISSAL WITHOUT
15 PREJUDICE**

16 This suit was reassigned from a magistrate judge to the undersigned in light of a Ninth
17 Circuit decision.¹

18 On May 3, 2023, petitioner, an inmate, filed a document with the United States District
19 Court for the Eastern District of California in the instant case, which was opened as a habeas
20 corpus action. Dkt. 1.

21 On May 17, 2023, this action was transferred to the United States District Court for the
22 Northern District of California. Dkts. 5, 6. On the same day the action was transferred to the
23 Northern District, the Clerk of the Court sent a notice to petitioner informing petitioner that his
24 action could not go forward until he filed with the Court a habeas corpus petition form, completed
25 in full, within twenty-eight days or his action would be dismissed. Dkt. 7. The Clerk also sent
26 petitioner another notice directing him to either pay the filing fee or file a completed prisoner's *in
27 forma pauperis* ("IFP") application. Dkt. 8. The Clerk sent petitioner a blank IFP application and

28
29

¹ *Williams v. King*, 875 F.3d 500, 503 (9th Cir. 2017) (magistrate judge lacked jurisdiction
to dismiss case on initial screening because unserved defendants had not consented to proceed
before magistrate judge).

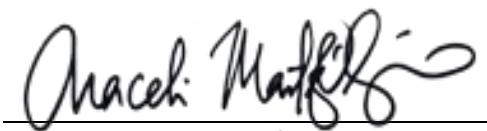
1 told him that he must pay the fee or return the completed application within twenty-eight days or
2 his action would be dismissed.

3 More than twenty-eight days have passed, and petitioner has not filed his petition on the
4 correct form. He has also failed to pay the filing fee or return the IFP application, and the deadline
5 to do so has passed.

6 Accordingly, this action is **DISMISSED WITHOUT PREJUDICE**. The Clerk shall
7 terminate all pending motions and close the file. Any motion to reopen must contain his petition
8 on the correct form and must also include either the full filing fee or a completed IFP application.

9 **IT IS SO ORDERED.**

10 Dated: September 20, 2023



11
12 ARACELI MARTÍNEZ-OLGUÍN
13 United States District Judge
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28